

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28559 of 2018

Arising Out of PS.Case No. -293 Year- 2015 Thana -NALANDA COMPLAINT
CASE District- NALANDA (BIHARSHARIFF)

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Kumari Bina, W/o Arvind Kumar Jamuar, R/o Mohalla-
Kantahi (Saluganj), P.S.- Bihar, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Pappu Kumar, S/o Arjun Mistri, R/o Mohalla- Kantahi
(Saluganj), P.S.- Bihar, District- Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek, Adv.

For the State : Mr. Satyadev Pd. Singh Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 20-06-2018 The opposite party No. 2 is alleged to have
cheated the petitioner/complainant inasmuch as the money
which was invested by her in a furniture shop did not bear
any dividend to her. On her complaint, a case *vide* Bihar P.S.
Case No. 468 of 2014 was registered for investigation against
the opposite party No. 2 under Sections 406 and 420 of the
Indian Penal Code.

In the aforesaid case, the opposite party No. 2
sought anticipatory bail from the court below on the ground



that money which was taken by him from the petitioner/complaint was returned to her. In support of the aforesaid contention, he had brought on record an agreement between the parties which is said to have been executed on a 100 rupees Stamp Paper. The petitioner later learnt that the aforesaid Stamp Paper was forged and that it was never purchased from any genuine Stamp vendor. Even the contents of the affidavit were incorrect. No money had ever been returned to the petitioner.

For the aforesaid act of opposite party No. 2, a separate complaint, bearing Complaint No. 293C of 2015 was lodged by the petitioner/complainant against the opposite party No. 2. In the aforesaid complaint, the opposite party no. 2 was granted anticipatory bail by the Court of learned 4th Addl. Sessions Judge, Nalanda in A.B.P. No. 2032 of 2015, dated 19.12.2015. The court below granted anticipatory bail to the opposite party No. 2 on the ground that it was a case which bordered on civil dispute and that there were counter assertions on behalf of the parties.

Feeling aggrieved by the aforesaid order, the petitioner sought cancellation of bail on the ground that it was not a case of transaction of money, but a case of furnishing false and fabricated document in support of the contentions of the opposite party No. 2, which led to the



grant of anticipatory bail.

This act of opposite party No. 2, it was alleged, not only aggrieved the petitioner/complainant, but also caused miscarriage of justice as an order was passed on wrong statement of fact.

The court below *vide* order dated 16.01.2018 refused to cancel the bail of opposite party No. 2 by holding that the anticipatory bail was granted on merits of the case, considering the case to be one of civil liability and once bail was granted, cancellation could not have been resorted to without genuine reason and cause. The court below took note of the fact that the law with respect to cancellation of bail is well settled and that cancellation of bail has only to be sparingly and not casually resorted to.

Considering the nature of accusation as also the background of business partnership between the petitioner/complainant and the opposite party No. 2, this Court is not inclined to interfere with the order refusing to cancel the bail of the opposite party No. 2.

The petition is, therefore, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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